



Legislation Details (With Text)

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On agenda: 9/19/2022 **Final action:**

Title: RESOLUTION NO. 128-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A CONDITIONAL USE TO ALLOW OUTDOOR DINING AT NIGHT ASSOCIATED WITH RESTAURANTS ASSOCIATED WITH THE PROJECT KNOWN AS CITY CENTER DELRAY, AS MORE PARTICULARLY DESCRIBED HEREIN, PURSUANT TO LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES AND THE COMPREHENSIVE PLAN OF THE CITY OF DELRAY BEACH; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (QUASI JUDICIAL).

Sponsors: Development Services Department

Indexes:

Code sections:

Attachments: 1. Agenda Cover Report, 2. Resolution 128-22 City Center Delray outdoor use, 3. PZB Staff Report-City Center Delray-2022-08-18, 4. HPB Staff Report-City Center Delray Conditional Use-2022-08-03, 5. Plans-City Center Delray-2022-08-03, 6. Justification Statement-City Center Delray-2022-08-03, 7. CCD-TPS letter- City Center Delray 6-28-22, 8. DDA Approval Letter-City Center Delray, 9. Simple Legal Review Approval Resolution 128-22

Date	Ver.	Action By	Action	Result
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TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services Director
THROUGH: Terrence R. Moore, ICMA-CM
DATE: September 19, 2022

RESOLUTION NO. 128-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A CONDITIONAL USE TO ALLOW OUTDOOR DINING AT NIGHT ASSOCIATED WITH RESTAURANTS ASSOCIATED WITH THE PROJECT KNOWN AS CITY CENTER DELRAY, AS MORE PARTICULARLY DESCRIBED HEREIN, PURSUANT TO LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES AND THE COMPREHENSIVE PLAN OF THE CITY OF DELRAY BEACH; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (QUASI JUDICIAL).

Recommended Action:

Review and consider Resolution No. 128-22, approving a Conditional Use request for outdoor dining at night for the restaurant associated with the project known as City Center Delray.

Background:

The property is located at the northwest corner of North Swinton Avenue and West Atlantic Avenue and is within the Locally and Nationally Designated Old School Square Historic District. The subject property consists of 10 North Swinton Avenue (Doc's All American), an unaddressed parking lot located west of 10 North Swinton Avenue, and 37 West Atlantic Avenue (Dunkin Donuts). The

property currently contains a Masonry Vernacular style 1951 building that was formerly occupied by a restaurant known as “Doc’s All American” with a parking lot to the west and a non-contributing, Masonry Vernacular style circa 1980 building that is occupied by the Dunkin Donuts coffee shop with associated parking. The Doc’s property is listed as a contributing resource within the National Register designated Old School Square Historic District and the property is currently listed as a non-contributing resource within the Local Register designated Old School Square Historic District.

On December 2, 2021, a Class V Site Plan, COA, Waiver, and In-Lieu of Parking requests were submitted under the current land use and zoning of the property. On March 4, 2022, the applicant submitted a Conditional Use request to allow outdoor dining operating at night and as the principal use or purpose of the restaurant formerly known as Doc’s (10 N. Swinton Avenue), as the outdoor dining use had been discontinued.

The City Center Delray project includes the renovation of Doc’s Place (10 N Swinton Avenue), the removal of the Dunkin’ Donuts building, and construction of a new 3 story, 31,779 sq. ft commercial mixed-use building in the Art Deco/Streamline Moderne style. The proposal includes retail & restaurant uses on the ground floor, and office spaces on the second & third floor. The new 3-story structure will adjoin the renovated Doc’s building. The request also includes a CBD Waiver Request to allow the Porch frontage type and an In-Lieu of parking for 25 parking spaces. It is noted that the proposal is considered a unified development of the three properties totaling 0.76 acres.

The subject request is the Conditional Use to allow outdoor dining which operates at night, and which is the principal use or purpose of the restaurant. The request is applicable to the existing Doc’s building. Both the OSSHAD and CBD Overlay permit restaurants as a principal use and allow outdoor dining areas that are accessory or supplemental to a restaurant. However, OSSHAD limits the operation of the outdoor dining area to daylight hours. The operation of outdoor dining at night and/or which is the principal use or purpose of the associated restaurant requires approval of a conditional use. This regulation reflects the need to evaluate the potential impact on residences, which exist throughout OSSHAD.

A restaurant with outdoor dining as its primary use has existed on this property since the 1950’s when it was first built (the restaurant never had an indoor dining area). The proposed outdoor dining area is surrounded by non-residential uses along the intersection of two major downtown corridors (Atlantic and Swinton Avenues). The location of outdoor dining along at such a prominent intersection (as it has historically existed) will likely contribute to the continuation of the pedestrian experience within the central downtown area. It is noted that single-family residences do exist within the block to the north; one is 90 feet to the north adjacent to the CRA Office Building and the other is 315 feet to the north and directly south of Dadas Restaurant (also includes outdoor dining at night).

Pursuant to LDR Section 2.4.5 (E)(5), in addition to provisions of Chapter 3, the City Commission must make findings that establishing the conditional use will not:

- a) Have a significantly detrimental effect upon the stability of the neighborhood within which it will be located;
- b) Hinder development or redevelopment of nearby properties.

As this property is located both within a historic district, both the HPB and the Planning and Zoning Board considered the conditional use request and provided recommendations. The attached HPB and Planning and Zoning Board (PZB) staff reports provide full background and analysis of the conditional use request. The City Center Delray project was reviewed by the Downtown

Development Authority (DDA) at its June 21, 2022, and the approval (5-2) memo is attached.

At its meeting of August 3, 2022, the HPB recommended approval to the Planning and Zoning Board for the subject request by a vote of 6 to 0 (Ms. Willis absent).

At its meeting of August 15, 2022, the PZB recommended approval to the City Commission of the conditional use by a vote of 5 to 0 (Mr. Zeller stepped down and Ms. Morrison absent) with the following conditions:

1. That the outdoor dining hours of operation would end at midnight.

City Attorney Review:

Approved as to form and legal sufficiency.

Funding Source/Financial Impact:

N/A

Timing of Request:

The Historic Preservation Board will review the Certificate of Appropriateness and Class V Site Plan Modification following action by the City Commission on the Conditional Use, Waiver, and In-Lieu requests.